

REMARKS

Claims 1-16 are pending in this application. Claims 12-15 are currently withdrawn from consideration. By this Amendment, claims 1 and 12 are amended and claim 16 is added. No new matter is added. Support for the amendments can be found in at least Applicant's original claim 1 and Applicant's specification, page 6, lines 1-10 and Figs. 2 and 3, for example. Reconsideration of this application in view of the above amendments and following remarks is respectfully requested.

I. Restriction Requirement

The Office Action constructively elects by original presentation claims 1-11, and withdraws claims 12-15 from consideration. Applicant traverses this Restriction Requirement. Specifically, Applicant respectfully submits that the subject matter of all claims is sufficiently related that a thorough search for the subject matter of any one group of claims would encompass a search for the subject matter of the remaining claims. Thus, it is respectfully submitted that a search and examination of the entire application could be made without serious burden. See MPEP §803. It is respectfully submitted that all claims should be examined in order to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office.

II. Prior Art Rejections

The Office Action rejects claims 1-3 and 5-11 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 5,863,102 to Waguespack; and claim 4 under 35 U.S.C. §103(a) as allegedly being unpatentable over Waguespack. The rejections are respectfully traversed.

Claim 1 recites, among other features, a retaining part with a retaining flange, and having a supporting surface integrally formed on the retaining flange, the retaining flange being configured to engage a toothbrush head in a space between (1) a plate-like bristle

carrier of the toothbrush head, the bristle carrier being produced from a rigid plastic, and (2) a retaining crosspiece of the toothbrush head, the retaining crosspiece being produced from a rigid plastic and being spaced apart from the bristle carrier to form the space, the retaining part supporting the bristle carrier by way of the supporting surface. Waguespack fails to disclose retaining flange configured to engage a toothbrush head in a space between the bristle carrier and the retaining crosspiece of the toothbrush head. The Examiner fails to give this functional feature any patentable weight. The MPEP requires the Examiner to evaluate and consider a functional feature just like any other feature of the claim. See MPEP §2173.05(g).

Waguespack discloses rotating clamps or bobbins 44 and 46. When the rotating clamps rotate into the closed position, the rotating clamps drive the brush head firmly into engagement with the head engagement device because of the pinched cylindrical structure of the rotating clamps. (See Waguespack's col. 7, lines 51-59 and Figs. 4, 5 and 9). However, Waguespack's rotating clamps engage the head of the toothbrush, and not a space between the bristle carrier and the retaining crosspiece of the toothbrush head. Thus, Waguespack fails to disclose a retaining flange configured to engage the toothbrush head in a space between the bristle carrier and the retaining crosspiece of the toothbrush head because Waguespack's device would need to be modified to achieve the features of Applicant's independent claim 1. (See *Telemac Cellular Corp. v. Topp Telecom, Inc.*, 247 F.3d 1316, 1330 (Fed. Cir. 2001) (a device does not infringe simply because it is possible to alter the device in a way that would satisfy all of the limitations of the patent claim)). In contrast, Applicant's independent claim 1 recites a retaining flange configured to engage the toothbrush head in a space between the bristle carrier and the retaining crosspiece of the toothbrush head. According to Applicant's configuration, it is possible to provide a retaining device that ensures secure retention of the

toothbrush head while, at the same time, providing reliable support for the bristle carrier. (See Applicant's specification, page 2, lines 31-36).

Accordingly, Applicant respectfully requests withdrawal of the rejections.

In addition, the dependent claims are allowable for at least their dependence on allowable independent claim 1.

Accordingly, Applicant respectfully requests withdrawal of the rejections.

III. New Independent Claim 16

By this Amendment Applicant adds new independent claim 16. The prior art of record fails to disclose or render obvious the features of independent claim 16. Accordingly, Applicant respectfully requests allowance of independent claim 16.

IV. Rejoinder

Applicant respectfully requests rejoinder and allowance of withdrawn claims 12-15. Independent claim 12 is a method claim corresponding to independent claim 1. Because independent claim 1 is in condition for allowance, Applicant respectfully requests rejoinder and allowance of independent claim 12, which contains all of the features of independent claim 1. In addition, Applicant respectfully requests rejoinder and allowance of dependent claims 13-15 because they depend from independent claim 12.

V. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-16 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:

Request for Continued Examination

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